



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3188

ENFORCEMENT &
COMPLIANCE ASSURANCE
DIVISION

Reply To: 20-CO4

Mr. Cam R. Hulse
Owner and Registered Agent
Adrenaline Performance, LLC
606 North State Street.
Shelley, Idaho 83274-5167

Via Email: adrenalineperformancel@yahoo.com

Re: Requirement to Provide Information Pursuant to Section 208(a) of the Clean Air Act

Dear Mr. Hulse:

The U. S. Environmental Protection Agency (EPA) hereby requires Adrenaline Performance, LLC, and any of its parent organizations, subsidiary organizations, affiliated organizations, predecessors, successors, agents, and assignees (collectively "Adrenaline" or "you"),¹ to provide the information requested below.

EPA issues this Information Request under Section 208(a) of the Clean Air Act (CAA), 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting, or has acted, in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Director of the Region 10 Enforcement and Compliance Assurance Division.

You are required to provide the information and documents in accordance with the enclosed Information Request within 45 days of receipt of this request. EPA acknowledges that the COVID-19 pandemic may be impacting your business. If that is the case, we will consider your specific circumstances in determining an appropriate timeline for responding to this Information Request, while still ensuring that EPA receives the information it needs to timely confirm your compliance with the CAA. Please contact EPA within 15 days of receipt of this request if you need additional time to respond.

Appendix A provides Instructions for your response to this Information Request, including for submission of electronic records, as well as Definitions used in this Information Request. Appendix B contains the information you are required to submit.

¹ See definition 2 in Appendix A.

Failure to provide the requested information may result in a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries and penalties. Pursuant to Sections 208 and 307 of the CAA, 42 U.S.C. §§ 7542(a)–(b), 7607(a), EPA may request additional information, inspections or depositions.

It is important that your responses be clear, accurate, organized and complete. Appendix C contains the form with which you are required to certify the truth and completeness of your response. EPA will regard any information that is misleading, false, incomplete or provided without regard to its accuracy as a violation of the CAA and/or criminal statutes.

The information requested must be provided whether or not you regard part or all of it as a trade secret or confidential business information. You may assert a confidentiality claim covering part or all of the information submitted as provided in Appendix D of this Information Request.

EPA may use any information provided in response to this Information Request in an administrative, civil or criminal action.

EPA's Small Business Resources Information Sheet, which provides information on compliance assistance that may be helpful to you, is enclosed.

Currently, EPA Region 10 is not accepting any hard-copy document deliveries. If possible, we ask you to upload all required information to the secured web-link to be shared with you. Please identify the email address you would like to use to receive this secured web-link by sending an email to John Keenan at keenan.john@epa.gov or (206) 553-1817.

Questions concerning this Information Request should be directed to John Keenan. Questions from legal counsel should be directed to Julie Vergeront at (206) 553-1497 or by email at vergeront.julie@epa.gov.

Sincerely,

Morgan Jencius
Chief, Air and Land Enforcement Branch

Enclosures

1. Small Business Resources Information Sheet
2. Appendices A-E

Appendix A Instructions and Definitions

When providing the information requested in Appendix B, use the following instructions and definitions.

Instructions

1. Provide a separate narrative response to each question and subpart of a question set forth in Appendix B. Mark each answer with the number of the question (and subpart, if applicable) to which it corresponds.
2. For each question, provide a copy of each document relied on or referred to in the preparation of the response or that contains information responsive to the question.
3. Indicate on each document produced in response to this Information Request, or in some other reasonable manner, the number of the question to which it corresponds.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. If requested information or documents are not known or are not available to you at the time of your response to this Information Request, but later become known or available to you, you must supplement your response to EPA. Moreover, if you find at any time after submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts, you must provide EPA with a corrected response as soon as possible.
6. Provide the name, title, and business contact information for each person who prepared or was consulted in the preparation of your response. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained in this Information Request, or who may be able to provide additional responsive documents, provide the name, title, and business contact information for each such person and the additional information or documents that they may have.

Electronic Submissions

To aid in our electronic recordkeeping efforts, we request that you provide all documents responsive to this information request in an electronic format according to Paragraphs 1 through 6, below. These submissions are in lieu of hard copy.

1. Provide all responsive documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (OCR) for “image over text” to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text.

2. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel or Lotus format, and not in image format. If Excel or Lotus formats are not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel or Lotus.
3. Provide submission to the secure web-link provided by EPA.
4. Provide a table of contents of all electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. We recommend the use of electronic file folders organized by question number.
5. Documents claimed as confidential business information (CBI) must be submitted in separate file folders apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the CBI. Please follow the instructions in Appendix D for designating information as CBI.
6. Certify that the attached files have been scanned for viruses and indicate what program was used.

Definitions

All terms used in this information request have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 *et seq.*, or the applicable mobile source regulations, including those found at 40 C.F.R. Parts 85, 86, 1039, and 1068.

1. The terms “document” and “documents” means any object that records, stores, or presents information, and includes: email; writings; memoranda; contracts; agreements; records; or information of any kind, formal or informal, whether handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy. All documents in hard copy shall also include attachments to or enclosures with any document.
2. The terms “Adrenaline” or “you” or “your” includes, Adrenaline Performance, LLC, and any assumed or related business names, parent organizations, subsidiary organizations, affiliated organizations, predecessors, successors, agents, and assignees, or other entities that performed work or acted in any way on behalf of, are related to, or acted at the direction of Adrenaline’s.
3. The term “catalyst” refers to a system, such as a catalytic converter or diesel oxidation catalyst (DOC), that contains parts or chemical elements which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, are not consumed or altered in the reaction. Catalysts consist of a flow-through structure that is coated with an active metal catalyst and surrounded by a stainless-steel housing.
4. The term “diesel particulate filter” or “DPF,” also known as a “periodic trap oxidizer” or “PTOX,” refers to an exhaust after-treatment emission control component that physically traps particulate matter (PM) and removes it from the exhaust stream, typically using a porous ceramic or cordierite substrate or metallic filter.

5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. ECM programming relies on calculations and tables of information to provide appropriate outputs. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles, equipment, and engines. ECMs may be incorporated separately with multiple units or may be combined into a single unit.
6. The term “element of design” means any control system (*e.g.*, computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle, motor vehicle engine, nonroad equipment, or nonroad engines.
7. The term “emission control component” means any part or component and its associated fluids, sensors, signals, components, and control systems that function primarily for emission control and whose deviation from original manufacturer specifications and/or failure may significantly increase emissions.
8. The term “exhaust gas recirculation” or “EGR” and “clean gas induction” or “CGI” refers to emission control components that direct a portion of engine exhaust back into the engine’s combustion chamber to control combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (NO_x). The EGR and CGI systems may include a cooler, which cools the recirculated exhaust.
9. The term “On-Board Diagnostics” or “OBD” refers to an ECM that monitors emission control and emission-related components and systems along with certain engine components, such as the fuel delivery system and the engine control module. When the OBD detects a malfunction or deterioration that could affect emissions, it may illuminate a malfunction indicator light and produces diagnostic trouble codes to aid in repair.
10. The term “part or component” includes any part or component intended for use with, or as part of, a motor vehicle, motor vehicle engine, nonroad equipment, or nonroad engine (*e.g.*, ECM, element of design, calibration map, tune, tuner, or software that is installed on or designed for use in such vehicles, equipment, or engines).
11. The term “product” or “products” shall mean any service, part or component, or other item(s), including, but not limited to, engine parts, manifolds, turbos, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, or devices, that are manufactured (*i.e.*, created, written, programmed, fabricated, produced, assembled or modified), purchased, imported, distributed, downloaded, offered for sale, sold, provided, performed, and/or installed by your company that are intended for use with, or as part of, a motor vehicle, motor vehicle engine, nonroad equipment, or nonroad engine.
12. The term “selective catalytic reduction” or “SCR” refers to an emission control

component that includes systems, such as the diesel exhaust fluid (DEF) tank, urea quality sensor, DEF injection system, SCR catalyst(s), and other associated sensors, which inject a reductant, such as DEF, into the exhaust stream where it reacts with catalysts to convert NO_x emissions to nitrogen gas (N₂) and water (H₂O).

13. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download, and/or install one or more part(s) or component(s) (e.g. emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.
14. The term “tune” means any combination of software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
15. The term “tuner” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), code, or other content stored within or used by an ECM. Tuners also include any modules that are physically wired into the ECM, the engine, an emission control component, or other element of design capable of accessing, altering, or replacing the calibrations or operations of the engine or emission control component.

Appendix B

Information You Are Required to Submit to EPA

Pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, you must submit the following information as it pertains to activities at any location owned, leased, and/or operated by Adrenaline, or to any activities by Adrenaline, regardless of location, for the time period from **January 1, 2018 to the date of this request.**

1. Respond **YES or NO**: Since January 1, 2018, have you manufactured, offered for sale, sold, and/or installed any part, component, or product that, individually or in conjunction with other products, permanently or temporarily:
 - (a) Bypass, defeat, or render inoperative any emission control component, element of design, or emission related part or component including, but not limited to, the DPF system, EGR or CGI systems, catalyst system, OBD, SCR, or sensors, signals, or records related to such systems;
 - (b) Simulate the operation of any emission control component and/or related parts including, but not limited to, the DPF system, EGR or CGI systems, catalyst, OBD, SCR, or sensors, signals, or records related to these systems; and/or
 - (c) Modify engine operating parameters, such as fuel injection timing, fuel rail pressure, and/or pulse width, emission control parameters, or OBD functions including, but not limited to, those parameters sensed or controlled by the ECM?

Examples of such products include, but are not limited to EGR block plate, straight exhaust pipe, tune, tuner, ECM re-calibration, or other product. See Appendix A, Definitions, Paragraphs 10 and 11.

2. For each product identified in response to Request 1, above, provide copies of all purchase receipts/invoices, work orders, sales receipts/invoices and any other documents involving the purchase, sale, and/or installation of each product.
3. In an electronic, unlocked spreadsheet (or you may use the attached Appendix E², Worksheet 1), list each product identified in response to Request 1, above, and provide the following information:
 - (a) The product name;
 - (b) The product number;
 - (c) The product manufacturer's name and address;

² Appendix E, which consists of an Excel workbook, is provided electronically for your convenience to assist you in organizing your responses to this Request. Please use the Appendix E format if you are able. If you are not able to use Appendix E, then you should create your own table summarizing the requested information.

- (d) The product supplier's name and address (if different than manufacturer's);
 - (e) A description of what the product does and how the product operates (e.g., straight pipe that allows for removal of the DPF and SCR or a tuner that alters fuel injection timing and rail pressure);
 - (f) The type of vehicle(s), equipment, and engine(s) for which the product is designed, used, or sold; including the make(s), model(s), model year(s), engine type(s), year(s), and expected use(s) (i.e. agriculture, construction equipment, on-road diesel, etc.);
 - (g) The average cost to you of the product sold;
 - (h) Your average sale price for the product;
 - (i) The quantity of product that you manufactured each calendar year (or partial year if full year not yet available);
 - (j) The quantity of product that you purchased each calendar year (or partial year if full year not yet available);
 - (k) The quantity of product that you sold each calendar year (or partial year if full year not yet available);
 - (l) The quantity of product that you installed each calendar year (or partial year if full year not yet available); and
 - (m) Whether the product has been emissions tested and/or certified.
4. For each product identified in response to Request 1, provide the following:
- (a) A list of media through which you advertised (e.g., website, social media, newspaper, verbal, trucking shows, conventions), specifying the name of the media and/or date of truck show or convention;
 - (b) A list of the Universal Resource Locators (URLs) for any website or social media page that you use or have used to advertise any of the products and/or facilitate sales;
 - (c) Copies of any advertisements to sell, distribute, or install each product, including advertisements on websites and in other media; and
 - (d) Copies of any installation or operation instructions, guides, or manuals for each product.

5. Provide copies of all communications and/or other documents (including emails) between you and the manufacturer or supplier of each product identified in response to Request 1, above.
6. For each product identified in response to Request 1 above, provide copies of all disclaimers, waivers, notices or releases of liability, assumption of risk and/or indemnity agreements, signed by you, your customers, and/or any manufacturers. Provide any documents which relate to knowledge, liability and/or risk associated with the removal and/or modification of emission control components and/or engine parameters. Examples include, but are not limited to, statements that the product is only for testing, maintenance, racing, off-road, or other restricted use.
7. For each product identified in response to Request 1 above, provide copies of all documents related to the purchase, sale, and/or installation of each product that contains any customer vehicle, equipment, and/or engine information and/or information related to the customer's use or intended use of the product.
8. Provide a copy of all documents (including but not limited to emails) that discuss or describe any work you have done on any vehicle, equipment, or engine to alter, block, bypass, defeat, disconnect, delete, deactivate, remove (in part or in whole), or render inoperative in any way of any emission control component, element of design, and/or emission related part of any vehicle, equipment, or engine.
9. Provide a detailed, written description of the current business structure of Adrenaline and its affiliated organizations, including an organizational chart depicting the parent and subsidiary companies affiliated with Adrenaline, entities under common ownership with Adrenaline, and relative ownership interests in each entity.
10. Provide a copy of your corporate documents, including but not limited to articles of incorporation, by-laws, certificates of good standing, and partnership or membership agreements.
11. Provide the location of any and all warehouses or storage facilities where you store products or inventory. If you drop ship products, identify the wholesalers, manufactures, or other entities you have drop shipping arrangements with, describe those arrangements, and provide any and all supporting documentation (including but not limited to contracts).
12. Provide a list of your current and former employees (including independent contractors), from January 1, 2018 to present, indicating each employee's dates of employment, job title(s), and job responsibilities.

Appendix C
Statement of Certification

I am submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Information Request, issued pursuant to Section 208(a) of the Clean Air Act.

I certify that I am fully authorized by Adrenaline Performance, LLC and its parent organizations, affiliates, predecessors, successors, and assignees, to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____

Appendix D

Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information provided in response to this Information Request for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, Subpart B. Under Section 208(c) of the CAA, entities are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, Subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, Subpart B. EPA will construe a failure to furnish a business confidentiality claim with a response to this Information Request as a waiver of that claim, and the information may be made available to the public without further notice.

Pursuant to 40 C.F.R. § 2.301(h), the EPA possesses the authority to disclose to any authorized representative of the United States information which might otherwise be entitled to confidential treatment. To assist in its review and analysis, the EPA may disclose information provided in response to this Information Requests to an EPA contractor, the Eastern Research Group, under contract number EP-W-15-006. You may submit any comments to the EPA with its assertion of a business confidentiality claim.

To assert a business confidentiality claim, you must place on (or attach to) all information subject to the claim either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time it provides its response to this Information Request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be provided separately to facilitate identification and handling by the EPA. You should indicate whether confidential treatment is only required until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material claimed as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without its consent, and (4) the disclosure of the information is likely to cause substantial harm to its business’s competitive edge. *See* 40 C.F.R. §§ 2.208 (a)-(e). Emission data, as

defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. *See* 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

If you asserts a claim of business confidentiality in connection with information and documents forwarded in response to this Information Request, in accordance with 40 C.F.R. § 2.204(e)(4), it must answer the following questions with respect to any information or document for which it asserts a claim of business confidentiality:

1. What specific portions of the information are allegedly to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to the claim.
2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of that harm, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?

You are not required to respond to this question in light of the Supreme Court's decision in *Food Marketing Institute v. Argus Leader Media*, No. 18-481 (U.S. Supreme Court, June 24, 2019). As a result of that decision, EPA will not consider whether there is substantial competitive harm in evaluating your CBI claim.

7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

You must furnish responses to the above questions concurrent with its response to this Information Request if it has claimed any information as business confidential. *See* 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline.

The EPA will construe a failure to furnish timely responses to the above questions as a waiver of any confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please provide responses to:

John Keenan
Enforcement and Compliance Assurance Division (20-CO4)
U.S. Environmental Protection Agency
1200 Sixth Avenue, Ste. 155
Seattle, WA 98101

Pursuant to 40 C.F.R. § 2.205(c), be hereby advised that information provided as part of any comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of its response to these Requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with the comments as a waiver of that claim, and the information may be made available to the public without further notice.